

REMARKS

Applicants appreciate the thorough examination of the present application as evidenced by the final Office Action mailed January 15, 2004 ("Final Office Action"). Claims 1-3, 7-11, 16-30, 40, 41, 46-48, 50, 52 and 68-102 are pending in this application. Claims 1-3, 7-11, 17, 29, 30, 40, 41, 46-48, 50, 52, 72-78, 80, 93-96, 101 and 102 stand rejected. Claims 24 and 87 stand objected to.

Applicants have cancelled claims 1-3, 7-11, 17, 29, 30, 40, 41, 46-48, 50, 52, 72-78, 80, 93-96, 101 and 102 without prejudice. Applicants have amended claims 24 and 87 to include the limitations of the base claim and any intervening claims. In particular, claim 24 was amended to include the recitations of original claim 1, and claim 87 was amended to include the recitations of original claim 72. New claims 103-116 are added herein. New claims 103-109 depend from claim 24 and correspond to original claims 2, 3, 7-11 that were dependent upon original claim 1. New claims 110-116 depend from claim 87 and correspond to original claims 73-78 and 80 that were dependent upon claim 72. Thus, support for these amendments and new claims is found in the language of the original claims and currently pending claims, as well as throughout the specification. Consequently, no new matter is added by these amendments and new claims and their entry and allowance are respectfully requested. The concerns raised by the Examiner in the Final Office Action are set forth below.

I. Objection to Claims as Being Substantial Duplicates of Allowable Claims

The Examiner indicates that should claims 95 and 96 be found allowable, claims 40 and 41 will be objected to under 37 C.F.R. § 1.75 as being a substantial duplicate thereof. Applicants have cancelled claims 40, 41, 95 and 96 without prejudice. Therefore, this objection has been mooted and its withdrawal is respectfully requested.

II. Provisional Rejection of Claims Under the Judicially Created Doctrine of Obviousness-type Double Patenting

A. U.S. Patent Application Serial No. 10/235,381

Claims 1-3, 7-11, 17, 29, 30, 40, 41, 46-48, 50, 52, 72-78, 80, 93-96, 101 and 102

stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-142 of copending U.S. Patent Application Serial No. 10/235,381 (Attorney Docket No. 9233-68). Applicants have cancelled claims 1-3, 7-11, 17, 29, 30, 40, 41, 46-48, 50, 52, 72-78, 80, 93-96, 101 and 102 without prejudice, thereby mooting this rejection. Accordingly, Applicants respectfully request withdrawal of this rejection.

B. U.S. Patent Application Serial No. 10/075,097

Claims 1-3, 7-11, 17, 29, 30, 40, 41, 46-48, 50, 52, 72-78, 80, 93-96, 101 and 102 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-230 of copending U.S. Patent Application Serial No. 10/075,097 (Attorney Docket No. 9233-46). Applicants have cancelled claims 1-3, 7-11, 17, 29, 30, 40, 41, 46-48, 50, 52, 72-78, 80, 93-96, 101 and 102 without prejudice, thereby mooting this rejection. Accordingly, Applicants respectfully request withdrawal of this rejection.

The Final Office Action further states that claims 1-3, 7-11, 17, 29, 30, 40, 41, 46-48, 50, 52, 72-78, 80, 93-96, 101 and 102 are directed to an invention that is allegedly not patentably distinct from claims 1-230 of commonly assigned U.S. Patent Application Serial No. 10/075,097 (Attorney Docket No. 9233-46). As noted above, Applicants have cancelled claims 1-3, 7-11, 17, 29, 30, 40, 41, 46-48, 50, 52, 72-78, 80, 93-96, 101 and 102 without prejudice, thereby mooting the possible rejection of these claims under 35 U.S.C. § 103(a).

C. U.S. Patent Application Serial No. 10/382,155

Claims 1-3, 7-11, 17, 29, 30, 40, 41, 46-48, 50, 52, 72-78, 80, 93-96, 101 and 102 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-79 of copending U.S. Patent Application Serial No. 10/382,155 (Attorney Docket No. 9233-68IP). Applicants have cancelled claims 1-3, 7-11, 17, 29, 30, 40, 41, 46-48, 50, 52, 72-78, 80, 93-96, 101 and 102 without prejudice, thereby mooting this rejection. Accordingly, Applicants respectfully request withdrawal of this rejection.

III. Claim Rejections Under 35 U.S.C. § 103

A. Claims 1-3, 7-11, 17, 29, 30, 40, 41, 46-48, 50, 52, 72-78, 80, 93-96, 101 and 102 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over the Radha Krishnan et al. abstract (1999 Nat. Meet. Amer. Assoc. Pharm. Scient.) in view of U.S. Patent No. 5,349,052 to Delgado et al. and WO 97/14740. Applicants have cancelled claims 1-3, 7-11, 17, 29, 30, 40, 41, 46-48, 50, 52, 72-78, 80, 93-96, 101 and 102 without prejudice, thereby mooting this rejection. Accordingly, Applicants respectfully request withdrawal of this rejection.

B. Claims 1-3, 7-11, 17, 29, 30, 40, 41, 46-48, 50, 52, 72-78, 80, 93-96, 101 and 102 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over the Radha Krishnan et al. abstract (1999 Nat. Meet. Amer. Assoc. Pharm. Scient.) in view of U.S. Patent No. 5,349,052 to Delgado et al., and WO 97/14740 as applied against claims 1-3, 7-11, 17, 29, 30, 40, 41, 46-48, 50, 52, 72-78, 80, 93-96, 101 and 102 in further view of Harris et al. (J. Macromol. Sci. Vol. C25: 325-373). Applicants have cancelled claims 1-3, 7-11, 17, 29, 30, 40, 41, 46-48, 50, 52, 72-78, 80, 93-96, 101 and 102 without prejudice, thereby mooting this rejection. Accordingly, Applicants respectfully request withdrawal of this rejection.

In sum,-Applicants have canceled claims 1-3, 7-11, 17, 29, 30, 40, 41, 46-48, 50, 52, 72-78, 80, 93-96, 101 and 102 without prejudice and amended claims 24 and 87 in accordance with the Examiner's suggestion. Accordingly, Applicants respectfully submit that the claims as presented herein are in condition for allowance, which action is respectfully requested.

Conclusion

In light of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application, entry of these amendments and new claims and allowance of the pending claims to issue. The Examiner is invited and encouraged to contact the undersigned directly if such contact will expedite the prosecution of the pending claims to issue. In any event, any questions that the Examiner may have should be directed to the undersigned, who may be reached at (919) 854-1400.

It is not believed that an extension of time and/or additional fee(s)-including fees for net addition of claims-are required, beyond those that may otherwise be provided for in

Attorney Docket No. 9233-54
Application Serial No.: 09/873,899
Filed: June 4, 2001
Page 13

documents accompanying this paper. In the event, however, that additional fees are required, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 50-0220.

Respectfully submitted,



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Susan E. Freedman

Date of Signature: March 11, 2004